

From: Walker, Denise
Sent: Thursday, March 4, 2021 10:17 AM
To: jchelmowski@comcast.net; FOIA HQ <FOIA_HQ@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>
Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov; Epp, Timothy <Epp.Timothy@epa.gov>
Subject: RE: This is my Timely Required Response by the EPA and Denise Walker - Re: EPA Commercial Fee demands for Records Regarding me by the EPA and still Waiting for my Rights Required by the EPA pursuant 5 USC 552(l) Public Liaison written response to the 6 it

Dear Mr. Chelmowski:

Thank you for providing the response to my letter (Re: Fee category for Freedom of Information Act (FOIA) requests: Clock Stopped for Fees. Please submit further clarification. Dated February 12, 2021) below.

The National FOIA Office will review and consider your submission and send you a follow-up letter within 2 weeks.

Our FOIA Public Liaison, Mr. Epp, has offered to meet with you or to identify another supervisor for you to meet with to assist you with your concerns. I have copied him on this response.

If you would like to call to arrange a time to meet, either Tim or I are happy to speak to you. You may Also Call OGIS at 202-741-5770.

Best,

Denise A. Walker

202-564-6520

From: jchelmowski@comcast.net <jchelmowski@comcast.net>
Sent: Wednesday, March 3, 2021 5:14 PM
To: FOIA HQ <FOIA_HQ@epa.gov>; Walker, Denise <Walker.Denise@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>
Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov
Subject: This is my Timely Required Response by the EPA and Denise Walker - Re: EPA Commercial Fee demands for Records Regarding me by the EPA and still Waiting for my Rights Required by the EPA pursuant 5 USC 552(l) Public Liaison written response to the 6 items
Importance: High

Dear EPA FOIA Office, EPA Denise Walker, and EPA Chief FOIA Officer Melissa Hoffer.

Please confirm receipt of this timely response or I will email this every few hours until I received writing confirmation of this timely response and when I will be receiving my rights pursuant FOIA law 5 USC 552(l) because of the EPA deadline of March 4, 2021 and the EPA & EPA FOIA Public Liaison Timothy Epp are denying my rights pursuant to federal law.

As EPA Denise Walker February 12, 2021 letter states “As stated above, you may seek assistance from EPA’s FOIA Public Liaison” which I did and sent repeated emails for Public Liaison response for 6 items in writing which Timothy Epp has not responded to the 6 items yet. Ms. Walker and EPA have been recipients of these emails and are included and further documented after this email.

Therefore, I am still waiting for my rights as Ms. Walker stated on February 12, 2021 and pursuant to Federal law 5 USC 552(l) for the EPA provide response to my written response regarding the 6 issues in my Official FOIA Public Liaison request (see email Chain).

This is my required response by the EPA and EPA Denise Walker in her February 12, 2021 letter, that EPA legal authority to require this response by March 4, 2021.

The EPA attorneys Scott Albright and Kevin Miller reviewed requests and confirmed that I was an “Other” fee category beginning in 2018. This only changed on December 17, 2020 the day the EPA Denise Walker provided a full denial on FOIA and Privacy Act request # EPA-2021-000337 (EPA has not provide me the Privacy Act control number) for the EPA federal records regarding alleged EPA FOIA and Privacy Act searches on my FOIA and Privacy Act Requests.

I will update this response as soon as either EPA FOIA Public Liaison Timothy Epp and/or EPA Chief FOIA Officer Melissa Hoffer provide responses to ALL 6 items in my Official FOIA Public Liaison Request would help decide my fee category to my rights pursuant to federal laws of FOIA and Privacy Act.

As you and the EPA know, prior to December 17, 2020 EPA classified me as an “Other” Requester including “first-party” FOIA and Privacy Act requests, this “Commercial” classification change came within an hour of the December 17, 2020 EPA Denise Walker full denial of FOIA Request EPA-2021-000337 Response for the EPA communications regarding the EPA alleged FOIA and Privacy Act searches. The EPA Denise Walker full denial of the October 16, 2021 FOIA and Privacy Act request EPA-2021-000337 for the EPA communications regarding the EPA’s alleged FOIA and Privacy Act searches, she minutes before categorized me as “Other” fee category. Then within an hour the EPA and Denise Walker changed my FOIA Fee Category from “Other” to “Commercial”.

As you and EPA know, my FOIA Public Liaison Request that must be addressed include the following items in writing.

Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this Official FOIA Public Liaison mediation request.

1. Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester.
1. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number.
1. The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester.
1. The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records.
1. That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him.
1. The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That firstparty requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act.

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Please explain in detail exactly what needs to be negotiated in these 6 items by March 4, 2021. With ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITNG.

Please confirm in writing the receipt of this email meeting the EPA and Denise Walker's deadline.
Provide me the date the EPA FOIA Public Liaison will provide response in writing to each of these 6 items in my FOIA Public Liaison request which the Federal laws and you confirmed that I have this right.

Sincerely,

James Chelmowski

FOIA and Privacy Act Requester

FOIA Public Liaison Request

FOIA Public Liaison Request

From: jchelmowski@comcast.net <jchelmowski@comcast.net>

Sent: Tuesday, March 2, 2021 7:53 AM

To: 'Epp, Timothy' <Epp.Timothy@epa.gov>; 'foia@fcc.gov' <foia@fcc.gov>; 'Roberts, Antonio' <Roberts.Antonio@epa.gov>; 'Walker, Denise' <Walker.Denise@epa.gov>; 'National Privacy Program' <privacy@epa.gov>; 'Crawford, Tim' <Crawford.Tim@epa.gov>; 'Hoffer, Melissa' <

Hoffer.Melissa@epa.gov>; 'Nishida, Jane' <Nishida.Jane@epa.gov>; 'Packard, Elise' <Packard.Elise@epa.gov>
Cc: 'OIP.ComplianceInquiry@usdoj.gov' <OIP.ComplianceInquiry@usdoj.gov>; 'ogis@nara.gov' <ogis@nara.gov>
Subject: RE: Official FOIA Public Liaison mediation request with 6 items in dispute - These are not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!
Importance: High

Dear EPA's FOIA Public Liaison Timothy Epp and the EPA's Chief FOIA Officer Melissa Hoffer.

This email stops the tolling on all FOIA and Privacy Act requests with the EPA. The EPA must comply with FOIA federal law and my right to FOIA Public Liaison Request on these 6 items. 5 USC 552(I). The EPA Chief FOIA Officer has responsibility of the EPA Public Liaison.

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Please explain in detail exactly what needs to be negotiated in these 6 items by March 4, 2021. With ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITING.

You can easily put exact details of what you want to negotiate in writing of the 6 items unless you do not want a documented history of the TRUE Facts. So, you and the EPA want to provide false statements.

I look forward to the details of exactly what needs to be negotiated or the EPA FOIA Public Liaison response to ALL 6 items by March 4, 2021 in writing.

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As you know and documented on April 25, 2019 that the EPA has my preference of communications through emails not phone calls so communication would be documented in writing. You also sent your April 25, 2019 email to the EPA Administrator Andrew Wheeler and EPA General Counsel & EPA Chief FOIA Officer Matthew Leopold to document this email and my preference as a fact with the EPA. You have that email and is a Federal Record with the EPA. Your April 25, 2019 email to me is an official EPA federal record in the EPA email system and should be also stored in the EPA Privacy Act System of Records EPA-22 Correspondence Management System.

You repeatedly demand ONLY phone calls after April 25, 2019. I repeatedly request everything in writing which you repeatedly refuse. Which proves why all communications between the EPA and I MUST BE in writing. Which is documented as fact in the EPA federal record of your April 25, 2019 email to Andrew Wheeler, Matthew Leopold and me.

Therefore, in writing. What Exactly needs to be Negotiated?

I am not Congress and I have no legal authority to create new Federal Laws. So, I cannot negotiate federal laws with the EPA.

I am not the EPA who stated alleged facts to the Department of Justice (DOJ) and Attorney General (AG) on how they processed the EPA first party FOIA requests. 5 USC 552(e). So, I cannot negotiate what the

EPA stated as alleged facts to the DOJ and AG with the EPA.

Which the EPA repeatedly stated as fact to the DOJ and AG that firstparty requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act.

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Please explain in detail exactly what needs to be negotiated with me in these 6 items. Put ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITING.

OFFICIAL FOIA PUBLIC LIAISON DISPUTE MEDIATION BY 5 USC 552 CONSISTS OF THE FOLLOWING 6 (SIX) Items as follows:

Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this Official FOIA Public Liaison mediation request.

1. Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester.
1. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number.
1. The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester.
1. The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records.
1. That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him.
1. The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That firstparty requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act.

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Please explain in detail exactly what needs to be negotiated in these 6 items by March 4, 2021. With ALL YOUR QUESTIONS ON EXACTLY WHAT YOU NEED TO NEGOTIATION IN WRITING.

You can easily put exact details of what you want to negotiate in writing of the 6 items unless you do not want a documented history of the TRUE Facts. So, you and the EPA want to provide false statements.

I look forward to the details of exactly what needs to be negotiated or the EPA FOIA Public Liaison response to ALL 6 items by March 4, 2021 in writing.

Sincerely,

James Chelmowski

FOIA and Privacy Act Requester

From: Epp, Timothy <Epp.Timothy@epa.gov>

Sent: Monday, March 1, 2021 10:32 AM

To: jchelmowski@comcast.net; foia@fcc.gov; Roberts, Antonio <Roberts.Antonio@epa.gov>; Walker, Denise <Walker.Denise@epa.gov>; National Privacy Program <privacy@epa.gov>; Crawford, Tim <Crawford.Tim@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Nishida, Jane <Nishida.Jane@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>

Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov

Subject: RE: Official FOIA Public Liaison mediation request with 6 items in dispute - These are not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!

Dear Mr. Chelmowski,

Thank you for reaching out to request EPA's FOIA Public Liaison mediation services in connection with your disputes identified in your email copied below. Please provide several times you would be available for a telephone call this week along with your telephone number. If you want, I can have another EPA supervisor talk with you to serve as EPA's Public Liaison on this matter.

Please note that the FOIA does not require EPA to answer your questions; it only requires release of records (subject to certain limitations) in response to a proper request under the FOIA. The Public Liaison provisions of the FOIA do not entitle requesters to demand answers to their questions. The Public Liaison service is a dispute resolution service through which we apply interest-based negotiation methods and techniques to attempt to resolve disputes outside of litigation. Because the Public Liaison service is an interest-based negotiation process designed to explore opportunities for mutually agreeable resolution, neither EPA nor you will be bound until agreement is reached. Any agreement reached through the negotiation process would be documented in writing and you will be in full control of whether to agree to the written terms of the agreement. The process of exploring opportunities for consensual resolution does not need to be in writing –indeed, demanding that it be conducted in writing can chill the open and frank communication needed for interest-based negotiation and exploration of potential options for agreement.

I look forward to talking with you regarding your interests in an effort to find a mutually agreeable resolution to your concerns.

Tim

Timothy R. Epp

Associate General Counsel|[National FOIA Office](#)

U.S. Environmental Protection Agency | Office of General Counsel

1200 Pennsylvania Avenue, N.W. (MC 2310A)

Washington, D.C. 20460 | WJCN 7309B

Phone (202) 564-2830 | epp.timothy@epa.gov

From: jchelmowski@comcast.net <jchelmowski@comcast.net>

Sent: Monday, March 01, 2021 9:59 AM

To: Epp, Timothy <Epp.Timothy@epa.gov>; foia@fcc.gov; Roberts, Antonio <Roberts.Antonio@epa.gov>; Walker, Denise <Walker.Denise@epa.gov>; National Privacy Program <privacy@epa.gov>; Crawford, Tim <Crawford.Tim@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Nishida, Jane <Nishida.Jane@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>

Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov

Subject: Official FOIA Public Liaison mediation request with 6 items in dispute - These are not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!

Importance: High

Dear EPA, EPA's FOIA Public Liaison, and EPA's Chief FOIA Officer.

I am not a Commercial requester in fact the EPA confirmed that in at least one FOIA Appeal determination and EPA properly classified me as an "Other" requester. Then beginning on or about December 30, 2020, EPA apparent negligent and/or fraudulent concealment scheme of the EPA federal records regarding me classified me as "Commercial" requester contradicting EPA's Official Appeal determinations that I was an "Other" after EPA reviewed my status in the past. The EPA is using the new classification (beginning on or about December 30, 2020) calling me a "Commercial" requester to conceal the EPA's federal records regarding me and denying my rights by federal laws including FOIA and Privacy Act.

This is an Official Public Liaison Dispute Request and requires a signed FOIA Public Liaison response to the 6 items disputed. This is not FOIA request questions. This is a FOIA Public Liaison Dispute Mediation Request!

FOIA and Privacy Act Request EPA-2021-002747 would Confirm Who Created the False and Possibly Forged FOIA Appeal control Number EPA-2021-002054

The EPA would not respond to my emails regarding this False Appeal to change my Factual Appeal # EPA-2021-002012.

The EPA created this false Appeal on January 19, 2021 and back dated this to January 15, 2021. It appears this might even be a criminal act of forgery. This so the EPA can conceal the EPA federal records regarding me that I requested on October 16, 2020 through my rights by the federal laws of FOIA and Privacy Act.

OFFICIAL FOIA PUBLIC LIAISON DISPUTE MEDIATION BY 5 USC 552 CONSISTS OF THE FOLLOWING 6 (SIX) Items

Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this Official FOIA Public Liaison mediation request.

1. Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester.
2. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number.
3. The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester.
4. The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records.
5. That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him.
6. The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That first-party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act.

FACTS

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EPA FOIA Annual Reports to the Department of Justice

Did the EPA provide false statements to the Department of Justice in their EPA FOIA Annual Report with associated raw date?

The EPA stated as facts to the Department of Justice (DOJ) in the EPA FOIA Annual report with associated raw data regarding EPA FOIA request including EPA processed all firstparty requesters should be afforded the benefits of both access provisions of the FOIA as well as those of the Privacy Act:

1. FOIA Request a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "thirdparty" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "firstparty" requests) when those requesters are not subject to the Privacy Act, such as nonU.S. citizens. Moreover, because all firstparty requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any firstparty requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

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Chelmowski has been classified as an "Other" requester NOT "Commercial" from 2016 to about December 29, 2020

The EPA from my first FOIA Request in 2016 until about December 29, 2020 has categorized me as an "Other" FOIA requester. The EPA even reviewed and confirmed my classification as an "Other" requester in at least FOIA Appeal determination.

On or about December 30, 2020, the EPA stating I am a "Commercial Requester" when I am filing FOIA and Privacy Act requests for the EPA records regarding me.

I have always been categorized as an “Other Requester” since 2016 with the EPA this is clearly a concealment scheme by the EPA to conceal the EPA federal records regarding me.

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This was Just After the EPA refused to Provide a Clarification Letter with an EPA staff Member's Name on it

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This was just about a week or two after the EPA refused to provide the October 21, 2020 Clarification letter with an EPA name on it for FOIA/PA EPA-2021-000337. The EPA repeatedly denied providing the name of the person responsible for this letter on the letter. Then on December 17, 2020 EPA denied this Request. My fee category was “Other” for EPA-2021-000337.

Now, the EPA wants to conceal these facts from my FOIA and/or Privacy Act requests by not correctly processing and providing the responsive records. So, on December 30, 2020 began outrageous fees and categorizing me as “Commercial” requester trying to obtain the EPA federal records regarding me. Clearly a concealment scheme.

In October, November, and/or December 2020, the EPA appears to have decided to not produce responsive records for my FOIA and/or Privacy Act responsive records.

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FOIAonline signup did not request home phone numbers or home addresses.

See FOIAonline “Create a Public Account” below from the EPA's FOIAonline instructions nothing states:

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James Chelmowski's True Relationship with the EPA

The EPA knows the relationship with the EPA and me began in 2015. When I created an account for FOIAonline like tens of thousands other FOIAonline users per my rights as US citizen.

I have my federal rights to both the FOIA and Privacy Act Request. Under both laws I have the right to EPA federal records including EPA's Privacy Act System of Records EPA-9 “FOIAonline” and the EPA communications regarding me.

My relationship with the EPA is like many thousands of FOIAonline users. Those FOIAonline users and I have their/my rights to the EPA federal records related to them including but not limited to the EPA Privacy Act system of records regarding them.

Summary

Provide the federal laws, regulations that give the EPA legal authority of beginning to be categorizing me as a Commercial request on or about December 30, 2020. All six dispute items must be in the FOIA

Public Liaison response letter by the EPA. These items are not the FOIA request. These are disputed items in this official FOIA Public Liaison mediation request.

1. Provide the EPA and FOIA requirements for the phone numbers and mailing address in FOIAonline to obtain EPA records regarding the Requesters to be considered a "Other" or "Commercial" requester.
 2. That a cell phone on FOIAonline makes the requester a Commercial requester. Which are the requesters only phone number cannot used as FOIA phone number.
 3. The EPA legal authority of a FOIA requesting the EPA federal records regarding him is considered Commercial Requester.
 4. The EPA has legal authority to charge for records regarding the Requester in the EPA Privacy Act System of Records.
 5. That a FOIA and Privacy Act Requester is not entitled to the EPA federal records related to him under the FOIA and Privacy Act and the EPA must comply with federal laws, regulations, directives, policies, and procedures to provide these EPA federal records related to him.
 6. The EPA does not need to do as the EPA stated to the Department of Justice in their FOIA Annual Report that the EPA defines FOIA requests That first-party requesters should be afforded the benefit of both access provisions of the FOIA as well as those of the Privacy Act.
- Please provide response to ALL (6) six items above ASAP.

Sincerely

James Chelmowski

FOIA and Privacy Act Request

From: roberts.antonio@epa.gov <roberts.antonio@epa.gov>
Sent: Wednesday, February 24, 2021 4:31 PM
To: jchelmowski@comcast.net
Subject: Estimate Cost Notice EPA-2021-002747

We estimate that the cost to find responsive records will be approximately \$65.25. This estimate is based on about 0.50 of Search, and 1.25 of Review.

From: foia_hq@epa.gov <foia_hq@epa.gov>
Sent: Wednesday, February 24, 2021 4:26 PM
To: jchelmowski@comcast.net
Cc: Buchsbaum.Seth@epa.gov
Subject: EPA-2021-002747 Proposed Response and Fee Estimate - Clock Stopped for Assurance of Payment

Dear Mr. Chelmowski:

I hope this finds you well.

Please see the attached correspondence.

Best,

Denise A. Walker

202-564-6520

EPA National FOIA Office